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HONEYWELL/STW
Patent Services
115 Tabor Road
P.O. Box 377
MORRIS PLAINS, NJ 07950

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL ANDREW POUCHAK and
RALPH COLLINS BRINDLE

Appeal 2015-007977
Application 13/415,765
Technology Center 2100

Before ELENI MANTIS MERCADER, CARL W. WHITEHEAD JR., and ADAM J. PYONIN, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–23. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

THE INVENTION

Appellants' claimed invention is directed to a "control system having a bus extension framework" in which "[t]he system may have a flexible and reuseable block mechanism which may integrate with block control structures" (Abstract).

Independent claim 16, reproduced below, is representative of the subject matter on appeal:

16. A bus extension framework system comprising:

a heating, ventilation and air conditioning (HVAC) host controller;

a communications bus connected to the HVAC host controller; and

one or more device modules connected to the communications bus; and wherein:

the HVAC host controller comprises:

a function block engine;

a storage mechanism connected to the function block engine; and

an input/output system connected to the function block engine;

the function block engine comprises one or more function blocks;

the storage mechanism stores a proxy file incorporating configuration and/or communication information for virtually all of the one or more device modules.

REFERENCES and REJECTIONS

Claims 16–22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Wiemeyer (US 2010/0241245 A1; Sept. 23, 2010). Final Act. 2.

Claims 1–15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wiemeyer and Butler (US 2009/0261174 A1; Oct. 22, 2009). Final Act. 4.

Claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Wiemeyer and Butler. Final Act. 11.

ISSUES

The issues are whether the Examiner erred in finding:

1. that Wiemeyer discloses the limitations of a "HVAC host controller," a "function block engine," a "storage mechanism," and a "communications bus," as recited in claim 16; and
2. sufficient motivation to combine Wiemeyer and Butler.

ANALYSIS

We adopt the Examiner's findings in the Answer, Advisory Action, and Final Action and we add the following primarily for emphasis.

Anticipation rejection of claim 16

Appellants argue the Examiner erred in finding that Wiemeyer teaches or suggests the limitations of a "HVAC host controller," a "function block engine," a "storage mechanism," and a "communications bus," as recited in claim 16 (App. Br. 8). Appellants first contend that with respect to the claimed "HVAC host controller," that "the Examiner identified elements are not arranged as required by the claim and so do not show the identical invention in as complete detail as is contained in claim 16" (App. Br. 8). Particularly, Appellants contend error because the Examiner identifies multiple components as corresponding to the claimed "HVAC host controller," instead of as "components of a single composite entity" (App. Br. 10).

We are not persuaded by Appellants' arguments. The Examiner finds the combination of "all of items 100a, 830, and 870 as equivalent to the claimed 'HVAC host controller'" (Final Act. 12; *see* also Ans. 2). We agree, as the claim requires the HVAC host controller to "comprise" several elements, but does not require the HVAC host controller to be a "single composite entity." Appellants' similar arguments regarding Wiemeyer's zone controller 100a (*see* App. Br. 12–13) are unpersuasive for similar reasons.

Appellants additionally argue the Examiner erred in finding the claimed "function block engine" encompasses Wiemeyer's personal computer serving as a network user interface 830 (App. Br. 11). Appellants argue that the claimed "function block engine" is distinct from a processor (App. Br. 11, citing Specification ¶ 50) and the Specification, additionally incorporates by reference US 2008/0016493, describes that "[t]he first

portion of non-volatile memory 334, often called the firmware portion, may be used to store . . . a function block engine" (App. Br. 11, quoting US 2008/0016493 at ¶ 107). Appellants contend "one of ordinary skill in the art would readily recognize that a 'function block engine' stored in non-volatile memory (firmware) is not equivalent to a CPU of a personal computer" (App. Br. 12).

Appellants' Specification includes no explicit definition of a "function block engine." Appellants' identification of the incorporation by reference to US 2008/0016493 is unpersuasive, because US 2008/0016493 is one of nine references to be incorporated because it "may be [a] relevant patent" document (Spec. 7:16; *see* Spec. 6:29–7:17); further, the identified portion of US 2008/0016493 does not define a "function block engine" but instead states only that non-volatile memory "may be used to store" a function block engine, which is not suggestive of an exclusive definition (App. Br. 11, quoting US 2008/0016493 at ¶ 107). Therefore, we do not find Appellants' arguments persuasive. *See* Ans.3; Wiemeyer ¶ 66.

Appellants additionally argue the Examiner erred in finding the claimed "storage mechanism" is encompassed by storage in the network user interface 830, because "there is no express disclosure that either the 'configuration' of the temperature sensor 850a or the 'communication information' of the temperature sensor 850a is stored in a putative proxy file maintained by the network user interface 830" (App. Br. 14).

We are not persuaded by Appellants' arguments. The Examiner finds, and we agree, that the claimed "connection and configuration information" encompasses Wiemeyer's database configuration, in which "[t]he information shown in Figure 11 shows where the temperature sensor 850a

(equated to the claimed 'one or more device modules') is located (i.e., its configuration) and how to communicate with it" (Final Act. 14). This information is in turn synchronized with, and thus stored at, the "enterprise database" stored at user interface 830 (Wiemeyer ¶ 66).

Appellants additionally argue the Examiner erred in finding the claimed "communications bus" encompasses the connection between Wiemeyer's temperature sensor 850 and HVAC controller 870, because "Wiemeyer discloses that connection at paragraph [0060] as: 'a temperature sensor 850 *hard wired* into HVAC controller 870'" (App. Br. 14). Appellants contend that because Wiemeyer also illustrates use of an RS485 bus, an IRDA bus, and a serial bus, "one of ordinary skill in the art would not incur the additional cost and complexity of a communication bus for that simple connection" (App. Br. 14–15).

We are not persuaded by Appellants' arguments. The Examiner finds, and we agree, that claim 16 "does not define the 'bus' in any particular manner" (Ans. 4–5), and Appellants point to no definition of "communications bus" in the Specification; thus, a "communications bus" can be broadly and reasonably be interpreted as a hard wired connection. Appellants' argument that because the connection between the temperature sensor and HVAC controller is "hard wired," two-way communication between the sensor and controller is precluded (*see* Reply Br. 5–7), relies on attorney argument and is unpersuasive.[1] Appellants' argument is also contradicted by Wiemeyer's disclosure of temperature object 1050

[1] *See In re Geisler,* 116 F.3d 1465, 1470 (Fed. Cir. 1997); *In re Pearson,* 494 F.2d 1399, 1405 (CCPA 1974) ("Attorney's argument in a brief cannot take the place of evidence") (citation omitted).

(Wiemeyer ¶ 61, and Fig. 10A) which contains "state" information, thus, indicating two-way communication between a temperature sensor and HVAC controller.

Accordingly, we sustain the Examiner's rejection of independent claim 13, and claims 17–23 not separately argued.

Obviousness rejection of claim 1

Regarding the rejection of claim 1, Appellants argue the Examiner erred in finding motivation to combine Butler with Wiemeyer, because "it is unclear how a two-wire system of Butler necessarily reduces the amount of cabling over a 1 or 2 wire cable of the hard-wired connection taught by Wiemeyer" (App. Br. 16).

We are not persuaded by Appellants' argument. The Examiner finds that "another advantage of using a two-wire bus is (as stated in paragraph 0011 of Butler) to allow multiple units to share the same two wires in sending and receiving information" (Ans. 5; *see also* Final Act. 15). Appellants provide no argument contradicting this finding. We conclude the Examiner's articulated reasoning provides a rational underpinning to support the legal conclusion of obviousness. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). Accordingly we affirm the Examiner's rejection of independent claim 1, as well as independent claim 11 and dependent claims 2–10 and 12–15 not separately argued.

CONCLUSION

The Examiner did not err in finding:

1. that Wiemeyer discloses the limitations of a "HVAC host controller," a "function block engine," a "storage mechanism," and a "communications bus," as recited in claim 16; and
2. sufficient motivation to combine Wiemeyer and Butler.

DECISION

The Examiner's decision rejecting claims 1–23 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED